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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, JULY 28, 2000

COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

v.

CASE NO. PUE000279

ROBERT A. WINNEY,
d/b/a THE WATERWORKS COMPANY
OF FRANKLIN COUNTY,
Defendant

RULE TO SHOW CAUSE AND TEMPORARY INJUNCTION

Robert A. Winney, d/b/a The Waterworks Company of Franklin County ("The Waterworks Company" or "Company"), holds a certificate of public convenience and necessity authorizing provision of water service in Franklin County. The Company is subject to the Commission's jurisdiction under the Small Water or Sewer Public Utility Act, §§ 56-265.13:1 through 56-265.13:7, and other provisions of Title 56 of the Code of Virginia.

The Commission's Division of Energy Regulation ("the Division") has advised that, on July 26, 2000, it received a complaint from Larry L. Loschert, 98 Village Lane, Moneta, Virginia 24121, a customer of the Company. As provided by Rules 2:4(h) and 5:4 of the Commission's Rules of Practice and Procedure, 5 VAC 5-10-80-240, the Division reviewed this complaint.

The Division determined that The Waterworks Company had advised Mr. Loschert that service to his home would be disconnected unless a payment was received by the Company. According to Mr. Loschert, The Waterworks Company has stated in correspondence dated July 6, 2000, that service will be disconnected on July 31, 2000, unless a payment of \$1,127.50 is received. The payment includes \$1,060.00 for a hook up and \$67.50 for service for the third quarter.

Based upon its investigation, the Division alleges that The Waterworks Company is attempting to impose a connection fee or charge that has not been implemented as provided by § 56-265.13:5 of the Code of Virginia and Rule 5 of the Commission's Rules Implementing the Small Water or Sewer Public Utility Act, 20 VAC 5-200-40. Further, the Company is proposing to discontinue service contrary to The Waterworks Company of Franklin County's Rates, Rules, and Regulations filed with the Division and effective February 27, 1998. While the Company has proposed connection fees in several proceedings, the Commission has never approved such a fee. As provided by Rule No. 6(a.)(5) of The Waterworks Company's Rates, Rules, and Regulations, service may be discontinued only for nonpayment of a fee or charge imposed pursuant to its approved rates and charges. The same rule provides that service may not be terminated until payment for water service is past due by 30 days.

Upon consideration of the results of the Division's investigation and the possible violations of statutes and Commission rules, the Commission finds that a proceeding should be initiated and a hearing held. The Commission also finds that The Waterworks Company should be temporarily enjoined to comply with its Rates, Rules, and Regulations filed with the Division and effective February 27, 1998. Accordingly,

IT IS ORDERED THAT:

(1) Pursuant to §§ 56-35, 56-36, 56-234.4, and related provisions of Title 56 of the Code of Virginia, this matter be docketed and be assigned Case No. PUE000279.

(2) Robert A. Winney, d/b/a The Waterworks Company of Franklin County, IS ENJOINED until further order of the Commission to abide by the Rates, Rules and Regulations filed with the Division on February 27, 1998. Robert A. Winney, d/b/a The Waterworks Company of Franklin County, IS ENJOINED from discontinuing service to Larry L. Loschert, or to any other person, for failure to pay any rate, charge, or fee not approved by the Commission. Robert A. Winney, d/b/a The Waterworks Company of Franklin County, IS ENJOINED from discontinuing service to Larry L. Loschert, or to any other person, except as provided by the Rates, Rules and Regulations filed with the Division on February 27, 1998.

(3) Robert A. Winney, d/b/a The Waterworks Company of Franklin County, shall appear before the State Corporation Commission on September 5, 2000, at 10:00 a.m. in the Commission's courtroom, Tyler Building, Second Floor, 1300 East Main Street, Richmond, Virginia, a show cause why the Commission should not take any or all of the following actions:

(a) Impose a penalty or suspend or revoke a certificate of public convenience and necessity issued to Robert A. Winney d/b/a The Waterworks Company of Franklin County, as provided by § 56-265.6 of the Code of Virginia.

b) Permanently enjoin Robert A. Winney d/b/a The Waterworks Company of Franklin County from disconnecting or threatening to disconnect any customer for failure to pay any fee or charge not authorized as provided by § 56-265.13:5 B of the Code of Virginia.

(c) In the event that Robert A. Winney, d/b/a The Waterworks Company of Franklin County, violates the temporary injunction, punish for contempt or by confinement as provided by § 12.1-34 of the Code of Virginia.

If Robert A. Winney, d/b/a The Waterworks Company of Franklin County, does not appear at the appointed time and place, the Commission may receive evidence, hear argument, and proceed to impose penalty or to enjoin action in his absence.

(4) As provided by § 12.1-31 of the Code of Virginia and Rule 7:1 of the Commission's Rules of Practice and Procedure ("The Rules"), 5 VAC 5-10-520, a hearing examiner shall be

assigned to conduct all further proceedings and file a final report to the Commission.

(5) On or before August 28, 2000, The Waterworks Company shall file with the Clerk of the Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118, an original and four (4) copies of an answer to this Rule to Show Cause, as provided by Rule 5:16 of the Rules, 5 VAC 5-10-420(c). In the answer, The Waterworks Company may make any showing why it should not be enjoined to adhere to Rule No. 6 of its Rates, Rules and Regulations.

(6) The Clerk of the Commission shall forthwith mail by certified mail, with return receipt requested, two (2) attested copies of this Rule to Show Cause to the Honorable W.Q. Overton, Sheriff of Franklin County, 70 East Court Street, Rocky Mount, Virginia 24151-1720, and enclose therewith an addressed stamped envelope for the Sheriff's return.

(7) As provided by §§ 12.1-29 and 17.1-266 of the Code of Virginia, the Sheriff of Franklin County is requested to serve this Rule to Show Cause on Robert A. Winney, 430 Windtree Drive, Moneta, Virginia 24121-3106, in Franklin County, and to make his return to the Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118.